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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

WILLIAM A. MUNDELL  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
MARC SPITZER  
COMMISSIONER

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AZ CORP COMMISSION  
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IN THE MATTER OF US WEST  
COMMUNICATIONS, INC.'S COMPLIANCE  
WITH SECTION 271 OF THE  
TELECOMMUNICATIONS ACT OF 1996.

DOCKET NO. T-00000A-97-0238

PROCEDURAL ORDER

**BY THE COMMISSION:**

On November 7, 2002, the Hearing Division issued a Procedural Order that adopted Staff's recommendation contained in its October 4, 2002 Supplemental Staff Report and Recommendation to open a sub-docket to the Section 271 investigation for the purpose of determining the appropriate remedies for Qwest's interference in the Section 271 process.

In its October 4, 2002 Staff Report, Staff recommends that all of the letters, comments and data responses identified in the Staff Report automatically become part of the record. Staff further recommends that parties be given 10 days to submit additional evidence and to comment on the impact of certain parties' inability to participate, and that Qwest should have 10 days to respond, whereupon Staff will make a recommendation as to the amount of additional fines it proposes. Staff does not believe that a hearing is necessary, but that Qwest, the entity that could be subject to fines, is entitled by law to request a hearing on the penalties imposed.

By Procedural Order dated November 26, 2002, the Hearing Division ordered parties to file comments to Staff's proposed procedures for the Section 271 sub-docket, including the need for a hearing, no later than December 10, 2002.

On December 10, 2002 the Residential Utility Consumer Office ("RUCO") filed Comments in which RUCO stated it had no objection to the recommended procedures set forth in Staff's October 4, 2002 Report. RUCO requested that it be allowed to make further recommendations, if necessary, after findings have been made in the Section 252 proceeding (Docket No. T-00000F-02-

1 0271).

2 On December 10, 2002, Qwest filed Comments on Staff's Proposed Procedural Schedule for  
3 the Section 271 sub-docket. Qwest also agreed with Staff's proposed procedures, including Staff's  
4 belief that an evidentiary hearing is not required. Qwest reserved its right to request a hearing on the  
5 penalties to be imposed under Staff's recommendation.

6 No party objects to Staff's proposed recommendations. The proposed procedures are fair,  
7 giving all parties an opportunity to participate in the process, and allow for the sub-docket issues to  
8 be resolved efficiently and in a timely fashion. The issues of Qwest's alleged violation of Section  
9 252(e) and its interference with the Section 271 process are distinct, albeit the underlying facts are  
10 somewhat related. Qwest faces separate remedies in each docket. The parties will have an  
11 opportunity to file exceptions to Staff's final report and recommended remedies. Thus, we defer until  
12 that time a determination whether additional information is required and whether the Section 252(e)  
13 matter is sufficiently related to the issue of remedies for interference in the Section 271 process such  
14 that a final decision in the Section 252(e) matter prior to resolution of the Section 271 sub-docket is  
15 in the public interest.

16 IT IS THEREFORE ORDERED that all letters, comments and data responses identified in the  
17 October 4, 2002 Supplemental Staff Report and Recommendation shall become part of the Section  
18 271 sub-docket record.

19 IT IS FURTHER ORDERED that the parties shall have until January 10, 2003, to submit  
20 additional evidence and to comment on the impact, if any, of certain parties inability to participate in  
21 the Section 271 process.

22 IT IS FURTHER ORDERED that Qwest shall file any responsive pleadings within 10 days  
23 after any party's filing.

24 IT IS FURTHER ORDERED that following comments by the parties and any Qwest  
25 response, Staff shall submit its recommendation and Proposed Order to the Commission as to the  
26 amount of additional fines or other remedies on account of Staff's finding that Qwest interfered with  
27 the Section 271 process as identified in the October 4, 2002 Report.  
28

IT IS FURTHER ORDERED that following Staff's final recommendations for remedies, any party shall have the right to request a hearing on the amount of any proposed fines or implementation of other remedies and all parties shall have 10 days in which to file exceptions to Staffs Proposed Order.

IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

DATED this 20<sup>th</sup> day of December, 2002.

  
JANE L. RODDA  
ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed/delivered this 20<sup>th</sup> day of December, 2002, to

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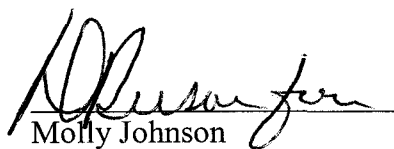
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